

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHNNY RAY MCATEE,

Defendant.

No. CR 05-2005-LRR

**FINAL JURY INSTRUCTIONS**

Ladies and Gentlemen of the Jury:

The instructions I gave you at the beginning of the trial and during the trial remain in effect. I will now give you some additional instructions.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important. This is true even though some of those I gave you at the beginning of and during trial are not repeated here.

The instructions I am about to give you now are in writing and will be available to you in the jury room. I emphasize, however, that this does not mean they are more important than my earlier instructions. Again, all instructions, whenever given and whether in writing or not, must be followed.

**INSTRUCTION NUMBER \_\_\_\_\_**

In considering these instructions, attach no importance or significance whatsoever to the order in which they are given.

**INSTRUCTION NUMBER \_\_\_\_\_**

Neither in these instructions nor in any ruling, action, or remark that I have made during this trial have I intended to give any opinion or suggestion as to what the facts are or what your verdicts should be.

**INSTRUCTION NUMBER \_\_\_\_\_**

It is your duty to find from the evidence what the facts are. You will then apply the law, as I give it to you, to those facts. You must follow my instructions on the law, even if you thought the law was different or should be different.

Do not allow sympathy or prejudice to influence you. The law demands of you just verdicts, unaffected by anything except the evidence, your common sense, and the law as I give it to you.

**INSTRUCTION NUMBER \_\_\_\_\_**

I have mentioned the word “evidence.” The “evidence” in this case consists of the following: the testimony of the witnesses, the documents and other things received as exhibits, and any facts that have been stipulated, that is, formally agreed to by the parties.

You may use reason and common sense to draw deductions or conclusions from facts which have been established by the evidence in the case.

Certain things are not evidence. I shall list those things again for you now:

1. Statements, arguments, questions, and comments by the lawyers are not evidence.

2. Objections are not evidence. The parties have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustained an objection to a question, you must ignore the question and must not try to guess what the answer might have been.

3. Testimony that I struck from the record, or told you to disregard, is not evidence and must not be considered.

4. Anything you saw or heard about this case outside the courtroom is not evidence.

Finally, if you were instructed that some evidence was received for a limited purpose only, you must follow that instruction.

**INSTRUCTION NUMBER \_\_\_\_\_**

There are two types of evidence from which a jury may properly find the truth as to the facts of a case: direct evidence and circumstantial evidence. Direct evidence is the evidence of the witness to a fact or facts of which they have knowledge by means of their senses. The other is circumstantial evidence—the proof of a chain of circumstances pointing to the existence or nonexistence of certain facts. The law makes no distinction between direct and circumstantial evidence. You should give all evidence the weight and value you believe it is entitled to receive.

**INSTRUCTION NUMBER \_\_\_\_\_**

The jurors are the sole judges of the weight and credibility of the testimony and the value to be given to each witness (including the defendant) who has testified in this case. In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe.

In deciding whether or not to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider, therefore, whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

**INSTRUCTION NUMBER \_\_\_\_**

In the previous instruction, I instructed you generally on the credibility of witnesses. I now give you this further instruction on how the credibility of a witness can be “impeached” and how you are to consider the testimony of certain witnesses.

A witness may be discredited or impeached by contradictory evidence; by a showing that the witness testified falsely concerning a material matter; by showing the witness has a motive to be untruthful; or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness’s present testimony.

You have heard testimony from Jodie McAtee who stated that she participated in the crime charged against the defendant. You also have heard evidence that she hopes to receive a reduced sentence on criminal charges pending against her in return for her cooperation with the prosecution in this case. Jodie McAtee entered into an agreement with the U.S. Attorney’s Office providing that if she provides substantial assistance to the government in its investigation of crimes, the prosecutor could file a motion for a reduction of her sentence. Jodie McAtee is subject to a mandatory minimum sentence, that is, a sentence that the law provides must be of a certain minimum length. If the prosecutor handling this witness’s case believes she provided substantial assistance, that prosecutor can file in the court in which the charges are pending against this witness a motion to reduce her sentence below the mandatory minimum sentence. The judge has no power to reduce a sentence for substantial assistance unless the government, acting through the United States Attorney, files such a motion. If such a motion for reduction of sentence for

**(CONTINUED)**



**INSTRUCTION NUMBER \_\_\_\_ (Cont'd)**

substantial assistance is filed by the government, then it is up to the judge to decide whether to reduce the sentence at all, and if so, how much to reduce it. Her testimony was received in evidence and may be considered by you. You may give the testimony of this witness such weight as you think it deserves. Whether or not her testimony may have been influenced by her hope of receiving a reduced sentence is for you to decide.

You have heard evidence that witness Jodie McAtee was once convicted of a crime. You may use that evidence only to help you decide whether to believe this witness and how much weight to give her testimony.

**INSTRUCTION NUMBER \_\_\_\_\_**

You have heard evidence that the defendant was previously convicted of crimes. You may use that evidence to help you decide whether to believe his testimony and how much weight to give it. That evidence does not mean that he committed the crime charged here, and you must not use that evidence as any proof of the crime charged in this case.

**INSTRUCTION NUMBER \_\_\_\_**

You have heard testimony that the defendant made statements to law enforcement. It is for you to decide: (1) whether the defendant made the statements and (2) if so, how much weight you should give to them.

In making these two decisions you should consider all of the evidence, including the circumstances under which the statements may have been made.

**INSTRUCTION NUMBER \_\_\_\_**

The government and the defendant have stipulated—that is, they have agreed—that certain facts are as counsel have stated. You must therefore treat those facts as having been proved.

**INSTRUCTION NUMBER \_\_\_\_\_**

You have heard a certain category of evidence called “similar acts” evidence. Here, you have heard evidence that the defendant has prior felony drug convictions. You may not use this “similar acts” evidence to decide whether the defendant carried out the acts involved in the crimes charged in the Indictment. In order to consider “similar acts” evidence at all, you must first unanimously find beyond a reasonable doubt, based on the rest of the evidence introduced, that the defendant carried out the acts involved in the crimes charged in the Indictment. If you make that finding, then you may consider the “similar acts” evidence to decide the defendant’s intent and knowledge. “Similar acts” evidence must be proven by a preponderance of the evidence; that is, you must find that the evidence is more likely true than not true. This is a lower standard of proof than proof beyond a reasonable doubt. If you find that this evidence is proven by a preponderance of the evidence, you should give it the weight and value you believe it is entitled to receive. If you find that it is not proven by a preponderance of the evidence, then you shall disregard such evidence.

Remember, even if you find that the defendant may have committed a similar act in the past, this is not evidence that he committed such an act in this case. You may not convict a person simply because you believe he may have committed similar acts in the past. The defendant is on trial only for the crimes charged, and you may consider the evidence of “similar acts” only on the issue of the defendant’s intent and knowledge.

**INSTRUCTION NUMBER \_\_\_\_**

Exhibits have been admitted into evidence and are to be considered along with all the other evidence to assist you in reaching your verdicts. You are not to tamper with the exhibits or their contents, and each exhibit should be returned into open court, along with your verdicts, in the same condition as it was received by you.

**INSTRUCTION NUMBER \_\_\_\_\_**

You have heard testimony from persons described as experts. Persons who, by knowledge, skill, training, education or experience, have become expert in some field may state their opinions on matters in that field and may also state the reasons for their opinion.

Expert testimony should be considered just like any other testimony. You may accept or reject it, and give it as much weight as you think it deserves, considering the witness's education and experience, the soundness of the reasons given for the opinion, the acceptability of the methods used, and all the other evidence in the case.

**INSTRUCTION NUMBER \_\_\_\_\_**

A reasonable doubt is a doubt based upon reason and common sense, and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.



**INSTRUCTION NUMBER \_\_\_\_\_**

The Indictment in this case charges the defendant with three different crimes.

Under Count 1, the Indictment charges that on or about March 8 and 9, 2005, the defendant did knowingly and intentionally attempt to manufacture and aid and abet the attempt to manufacture 50 grams or more of actual (pure) methamphetamine, a Schedule II controlled substance.

Under Count 2, the Indictment charges that on or about March 8 and 9, 2005, the defendant did knowingly and intentionally possess pseudoephedrine, a list I chemical, knowing and having reasonable cause to believe that the pseudoephedrine would be used to manufacture methamphetamine, a Schedule II controlled substance.

Under Count 3, the Indictment charges that on or about March 8 and 9, 2005, the defendant did knowingly and intentionally possess red phosphorous, a list I chemical, knowing and having reasonable cause to believe that the red phosphorous would be used to manufacture methamphetamine, a Schedule II controlled substance.

The defendant has pleaded not guilty to each of those charges.

As I told you at the beginning of the trial, an indictment is simply an accusation. It is not evidence of anything. To the contrary, the defendant is presumed to be innocent. Thus, the defendant, even though charged, begins the trial with no evidence against him. The presumption of innocence alone is sufficient to find the defendant not guilty and can be overcome only if the government proves, beyond a reasonable doubt, each essential element of a crime charged.

Keep in mind that you must consider, separately, each crime charged against the defendant, and must return a separate verdict for each of those crimes charged.

There is no burden upon the defendant to prove that he is innocent.

**INSTRUCTION NUMBER \_\_\_\_\_**

The crime of attempting to manufacture 50 grams or more of actual (pure) methamphetamine, as charged in Count 1 of the Indictment, has four essential elements, which are:

- One,* on or about March 8 and 9, 2005, the defendant intended to manufacture methamphetamine;
- Two,* the defendant knew that the material he intended to manufacture was a controlled substance, i.e., methamphetamine;
- Three,* the defendant voluntarily and intentionally carried out some act which was a substantial step toward the manufacture of methamphetamine; and
- Four,* the amount involved in the offense was a mixture or substance containing 50 grams or more of actual (pure) methamphetamine.

If all of the essential elements have been proved beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 1; otherwise you must find the defendant not guilty of attempting to manufacture 50 grams or more of actual (pure) methamphetamine.

**INSTRUCTION NUMBER \_\_\_\_**

If your verdict under Instruction No. \_\_\_\_ as to the defendant is not guilty, or if, after all reasonable efforts, you are unable to reach a verdict as to the defendant on Instruction No. \_\_\_\_, follow the directions on the verdict form and go on to consider whether the defendant is guilty of the crime of attempting to manufacture some lesser amount of actual (pure) methamphetamine.

The defendant may be found guilty of a lesser-included offense of Count 1 under one or both of the following two alternatives: (1) committing the offense as to at least 5 grams but less than 50 grams of actual (pure) methamphetamine; or (2) committing the offense as to less than 5 grams of actual (pure) methamphetamine.

***First Lesser-Included Offense: Attempting to Manufacture at Least 5 Grams but Less Than 50 Grams of Actual (Pure) Methamphetamine***

The crime of attempting to manufacture at least 5 grams but less than 50 grams of methamphetamine, a lesser-included offense of Count 1 of the Indictment, has four essential elements, which are:

- One,* on or about March 8 and 9, 2005, the defendant intended to manufacture methamphetamine;
- Two,* the defendant knew that the material he intended to manufacture was a controlled substance, i.e., methamphetamine;
- Three,* the defendant voluntarily and intentionally carried out some act which was a substantial step toward the manufacture of methamphetamine; and
- Four,* the amount involved in the offense was a mixture or substance containing at least 5 grams but less than 50 grams of actual (pure) methamphetamine.

**(CONTINUED)**

INSTRUCTION NUMBER \_\_\_\_ (Cont'd)

If all of the essential elements of this lesser-included offense have been proved beyond a reasonable doubt, then you must find the defendant guilty of the first lesser-included offense of Count 1; otherwise you must find the defendant not guilty of attempting to manufacture at least 5 grams but less than 50 grams of actual (pure) methamphetamine.

***Second Lesser-Included Offense: Attempting to Manufacture  
Less Than 5 Grams of Actual (Pure) Methamphetamine***

The crime of attempting to manufacture less than 5 grams of methamphetamine, as charged in this lesser-included offense of Count 1 of the Indictment, has four essential elements, which are:

- One*, on or about March 8 and 9, 2005, the defendant intended to manufacture methamphetamine;
- Two*, the defendant knew that the material he intended to manufacture was a controlled substance, i.e., methamphetamine;
- Three*, the defendant voluntarily and intentionally carried out some act which was a substantial step toward the manufacture of methamphetamine; and
- Four*, the amount involved in the offense was a mixture or substance containing less than 5 grams of actual (pure) methamphetamine.

If all of these essential elements of this lesser-included offense have been proved beyond a reasonable doubt, then you must find the defendant guilty of the second lesser-included offense of Count 1; otherwise you must find the defendant not guilty of attempting to manufacture less than 5 grams of actual (pure) methamphetamine.

**INSTRUCTION NUMBER \_\_\_\_**

The crime charged in Count 1 of the Indictment is an attempt to manufacture methamphetamine. A person may be found guilty of an attempt if he or she intended to manufacture methamphetamine and voluntarily and intentionally carried out some act which was a substantial step toward that manufacture.

A substantial step must be something more than mere preparation, yet may be less than the last act necessary before the actual commission of manufacturing. In order for behavior to be punishable as attempt, it need not be incompatible with innocence, yet it must be necessary to the consummation of the crime and be of such a nature that a reasonable observer, viewing it in context, could conclude beyond a reasonable doubt that it was undertaken in accordance with a design to violate the statute. Crimes such as attempt to manufacture methamphetamine require a defendant to engage in numerous preliminary steps which brand the enterprise as criminal.

## INSTRUCTION NUMBER \_\_\_\_

A person may also be found guilty of attempting to manufacture methamphetamine even if he personally did not do every act constituting the offense charged, if he aided and abetted the attempted manufacture of methamphetamine.

In order to have aided and abetted the attempted manufacture of methamphetamine, a person must:

- One*, have known the crime of attempting to manufacture actual (pure) methamphetamine was being committed or going to be committed; and
- Two* have knowingly acted in some way for the purpose of causing, encouraging or aiding the commission of the crime of attempting to manufacture methamphetamine.

For you to find the defendant guilty of attempting to manufacture some quantity of methamphetamine by reason of aiding and abetting, the government must prove beyond a reasonable doubt two things. First, the government must prove beyond a reasonable doubt that all of the essential elements of (i) the offense charged in Count 1; (ii) the first lesser-included offense of Count 1; or (iii) the second lesser-included offense of Count 1, as described in Instructions Number \_\_\_\_ and \_\_\_\_, were committed by some person or persons. And second, the government must prove beyond a reasonable doubt that the defendant aided and abetted the commission of the offense you find was committed.

You should understand that merely being present at the scene of an event, or merely acting in the same way as others or merely associating with others, does not prove that a person has become an aider and abettor. A person who has no knowledge that a crime is being committed or about to be committed, but who happens to act in a way which advances some offense, does not thereby become an aider and abettor.

**INSTRUCTION NUMBER \_\_\_\_\_**

In considering whether the government has met its burden of proving the defendant is guilty of a crime under Count 1 of the Indictment, you are further instructed as follows:

In determining whether the defendant is guilty of an offense under Count 1, the government is not required to prove that the amount or quantity of the controlled substance was as charged in the Indictment. The government need only prove beyond a reasonable doubt that there was an attempt to manufacture some measurable amount of the controlled substance.

However, if you find the defendant guilty of an offense under Count 1, you will need to determine whether the quantity of methamphetamine involved in the offense was 50 grams or more, at least 5 grams but less than 50 grams (the first lesser-included offense), or less than 5 grams (the second lesser-included offense). The burden of proof is on the government to establish the quantity beyond a reasonable doubt.

When computing the amount of actual (pure) methamphetamine, exclude from your calculation the weight of all the impurities, waste, by-products, or cutting agents.

For your information, one gram contains 1,000 milligrams, one ounce equals 28.35 grams, one pound equals 453.6 grams, and one kilogram contains 1,000 grams.

**INSTRUCTION NUMBER \_\_\_\_\_**

The crime of knowingly possessing pseudoephedrine, a list I chemical, knowing and having reasonable cause to believe that the pseudoephedrine would be used to manufacture methamphetamine, a Schedule II controlled substance, as charged in Count 2 of the Indictment, has two essential elements, which are:

*One*, on or about March 8 or 9, 2005, the defendant knowingly possessed pseudoephedrine, a list I chemical; and

*Two*, the defendant knew or had reasonable cause to believe that the pseudoephedrine would be used to manufacture a controlled substance, to wit: methamphetamine.

If both of these essential elements have been proved beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 2; otherwise you must find the defendant not guilty of the crime charged under Count 2.



**INSTRUCTION NUMBER \_\_\_\_\_**

The crime of knowingly possessing red phosphorous, a list I chemical, knowing and having reasonable cause to believe that the red phosphorous would be used to manufacture methamphetamine, a Schedule II controlled substance, as charged in Count 3 of the Indictment, has two essential elements, which are:

*One*, on or about March 8 or 9, 2005, the defendant knowingly possessed red phosphorous, a list I chemical; and

*Two*, the defendant knew or had reasonable cause to believe that the red phosphorous would be used to manufacture a controlled substance, to wit: methamphetamine.

If both of these essential elements have been proved beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 3; otherwise you must find the defendant not guilty of the crime charged under Count 3.

**INSTRUCTION NUMBER \_\_\_\_\_**

“Possession” is an element of the offenses charged in Counts 2 and 3. The law recognizes several kinds of possession. A person may have actual possession or constructive possession. A person may have sole or joint possession.

A person who knowingly has direct physical control over a thing, at a given time, is then in “actual possession” of it.

A person who, although not in actual possession, knowingly has both the power and the intention at a given time to exercise dominion or control over a thing, either directly or through another person or persons, is then in “constructive possession” of it.

If one person alone has actual or constructive possession of a thing, possession is “sole.” If two or more persons share actual or constructive possession of a thing, possession is “joint.”

Whenever the word “possession” has been used in these instructions it includes “actual” as well as “constructive” possession and also “sole” as well as “joint” possession.

**INSTRUCTION NUMBER \_\_\_\_\_**

You are instructed as a matter of law that methamphetamine is a Schedule II controlled substance. You must ascertain whether or not the substance in question in this case was methamphetamine. In ascertaining whether the substance in question was in fact methamphetamine, you may consider all the evidence in the case which may aid in the determination of that issue.

You are instructed as a matter of law that pseudoephedrine is a list I chemical. You must ascertain whether or not the substance in question in this case was pseudoephedrine. In ascertaining whether the substance in question was in fact pseudoephedrine, you may consider all the evidence in the case which may aid in the determination of that issue.

You are instructed as a matter of law that red phosphorous is a list I chemical. You must ascertain whether or not the substance in question in this case was red phosphorous. In ascertaining whether the substance in question was in fact red phosphorous, you may consider all the evidence in the case which may aid in the determination of that issue.

**INSTRUCTION NUMBER \_\_\_\_\_**

You will note the Indictment charges that the offenses were committed “on or about” certain dates. The government need not prove with certainty the exact date or the exact time period of an offense charged. It is sufficient if the evidence established that an offense occurred within a reasonable time of the date or period of time alleged in the Indictment.

**INSTRUCTION NUMBER\_\_\_\_\_**

An act is done “knowingly” if the defendant realized what he was doing and did not act through ignorance, mistake or accident. The government is not required to prove the defendant knew that his acts or omissions were unlawful. You may consider the evidence of the defendant’s acts and words, along with all other evidence, in deciding whether the defendant acted knowingly.

**INSTRUCTION NUMBER \_\_\_\_\_**

Intent may be proven by circumstantial evidence. It rarely can be established by other means. While witnesses may see or hear and thus be able to give direct evidence of what a person does or fails to do, there can be no eyewitness account of the state of mind with which the acts were done or omitted. But what the defendant does or fails to do may indicate intent or lack of intent to commit an offense.

You may consider it reasonable to draw the inference and find that a person intends the natural and probable consequences of acts knowingly done, but you are not required to do so. As I have said, it is entirely up to you to decide what facts to find from the evidence.

**INSTRUCTION NUMBER \_\_\_\_\_**

Throughout the trial, you have been permitted to take notes. Your notes should be used only as memory aids, and you should not give your notes precedence over your independent recollection of the evidence.

In any conflict between your notes, a fellow juror's notes, and your memory, your memory must prevail. Remember that notes sometimes contain the mental impressions of the note taker and can be used only to help you recollect what the testimony was. At the conclusion of your deliberations, your notes should be left in the jury room for destruction.

**INSTRUCTION NUMBER \_\_\_\_\_**

In conducting your deliberations and returning your verdicts, there are certain rules you must follow. I shall list those rules for you now.

*First*, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

*Second*, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach an agreement if you can do so without violence to individual judgment, because a verdict—whether guilty or not guilty—must be unanimous.

Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinions if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right, or simply to reach a verdict.

*Third*, if you find the defendant guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way in deciding whether the government has proved its case beyond a reasonable doubt.

**(CONTINUED)**



**INSTRUCTION NUMBER \_\_\_\_\_ (Cont'd.)**

*Fourth*, if you need to communicate with me during your deliberations, you may send a note to me through the marshal or court security officer, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone—including me—how your votes stand numerically.

*Finally*, your verdicts must be based solely on the evidence and on the law which I have given to you in my instructions. Each verdict, whether guilty or not guilty, must be unanimous. Nothing I have said or done is intended to suggest what your verdict should be—that is entirely for you to decide.

**INSTRUCTION NUMBER \_\_\_\_\_**

Attached to these instructions you will find the Verdict Forms. A Verdict Form is simply a written notice of a decision that you reach in this case. The answer to each Verdict Form must be the unanimous decision of the jury.

You will take the Verdict Forms to the jury room, and when you have completed your deliberations and each of you has agreed on an answer to each Verdict Form, your foreperson will fill out the forms, sign and date them, and advise the marshal or court security officer that you are ready to return to the courtroom.

Finally, members of the jury, take this case and give it your most careful consideration, and then without fear or favor, prejudice or bias of any kind, return such verdicts as accord with the evidence and these instructions.

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**LINDA R. READE  
JUDGE, U. S. DISTRICT COURT**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHNNY RAY MCATEE,

Defendant.

No. CR 05-2005-LRR

**VERDICT FORM - COUNT 1**

---

We, the Jury, find the defendant, Johnny Ray McAtee, \_\_\_\_\_ of the  
Not Guilty/Guilty  
crime of attempting to manufacture or aiding and abetting the attempt to manufacture  
50 grams or more of actual (pure) methamphetamine on or about March 8 and 9, 2005, as  
charged in Count 1 of the Indictment.

---

FOREPERSON

---

DATE

**(CONTINUED)**

Note: If you unanimously find Johnny Ray McAtee guilty of the above crime, have your foreperson write “guilty” in the above blank space, and sign and date this Verdict Form. Proceed to the verdict form for Count 2.

If you unanimously find Johnny Ray McAtee not guilty of the above crime, have your foreperson write “not guilty” in the above blank space. You must then consider whether Johnny Ray McAtee is guilty of attempting to manufacture or aiding and abetting the attempt to manufacture at least 5 grams but less than 50 grams of actual (pure) methamphetamine, the first lesser-included offense of Count 1.

If you are unable to reach a unanimous decision on the above crime, leave the space blank and decide whether Johnny Ray McAtee is guilty of attempting to manufacture or aiding and abetting the attempt to manufacture at least 5 grams but less than 50 grams of actual (pure) methamphetamine, the first lesser-included offense of Count 1.

**(CONTINUED)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHNNY RAY MCATEE,

Defendant.

No. CR 05-2005-LRR

**VERDICT FORM - COUNT 1**

***First Lesser-Included Offense:  
Attempting to Manufacture or Aiding and Abetting the Attempt to Manufacture  
at Least 5 Grams but Less Than 50 Grams of Actual (Pure) Methamphetamine***

We, the Jury, find the defendant, Johnny Ray McAtee, \_\_\_\_\_ of  
Not Guilty/Guilty  
the crime of attempting to manufacture or aiding and abetting the attempt to manufacture  
at least 5 grams but less than 50 grams of actual (pure) methamphetamine on or about  
March 8 and 9, 2005, a lesser-included offense of Count 1.

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
DATE

**(CONTINUED)**

Note: If you unanimously find Johnny Ray McAtee guilty of the above crime, have your foreperson write “guilty” in the above blank space, and sign and date this Verdict Form. Proceed to the verdict form for Count 2.

If you unanimously find Johnny Ray McAtee not guilty of the above crime, have your foreperson write “not guilty” in the above blank space, and sign and date this Verdict Form. You must then consider whether Johnny Ray McAtee is guilty of attempting to manufacture or aiding and abetting the attempt to manufacture less than 5 grams of actual (pure) methamphetamine, the second lesser-included offense of Count 1.

If you are unable to reach a unanimous decision on the above crime, leave the space blank and decide whether Johnny Ray McAtee is guilty of attempting to manufacture or aiding and abetting the attempt to manufacture less than 5 grams of actual (pure) methamphetamine, the second lesser-included offense of Count 1.

**(CONTINUED)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHNNY RAY MCATEE,

Defendant.

No. CR 05-2005-LRR

**VERDICT FORM - COUNT 1**

***Second Lesser-Included Offense:  
Attempting to Manufacture or Aiding and Abetting the Attempt to Manufacture  
Less Than 5 Grams of Actual (Pure) Methamphetamine***

We, the Jury, find the defendant, Johnny Ray McAtee, \_\_\_\_\_ of the  
Not Guilty/Guilty  
crime of attempting to manufacture or aiding and abetting the attempt to manufacture less  
than 5 grams of actual (pure) methamphetamine on or about March 8 and 9, 2005, a lesser-  
included offense of Count 1.

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
DATE

**(CONTINUED)**

Note: If you unanimously find Johnny Ray McAtee guilty of the above crime, have your foreperson write “guilty” in the above blank space, and sign and date this Verdict Form. Proceed to the verdict form for Count 2.

If you unanimously find Johnny Ray McAtee not guilty of the above crime, have your foreperson write “not guilty” in the above blank space. Proceed to the verdict form for Count 2.



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHNNY RAY MCATEE,

Defendant.

No. CR 05-2005-LRR

**VERDICT FORM - COUNT 2**

\_\_\_\_\_  
We, the Jury, find the defendant, Johnny Ray McAtee, \_\_\_\_\_ of the crime  
Not Guilty/Guilty  
of possessing pseudoephedrine knowing or having reasonable cause to believe the  
pseudoephedrine would be used to manufacture methamphetamine, on or about March 8  
and 9, 2005, as charged in Count 2 of the Indictment.

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
DATE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHNNY RAY MCATEE,

Defendant.

No. CR 05-2005-LRR

**VERDICT FORM - COUNT 3**

\_\_\_\_\_  
We, the Jury, find the defendant, Johnny Ray McAtee, \_\_\_\_\_ of the crime  
Not Guilty/Guilty  
of possessing red phosphorous knowing or having reasonable cause to believe the red  
phosphorous would be used to manufacture methamphetamine, on or about March 8 and  
9, 2005, as charged in Count 3 of the Indictment.

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
DATE